

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

FRANCES WILSON,)	Case No.: 2:16-cv-933
)	
Plaintiff,)	JUDGE:
vs.)	
)	COMPLAINT FOR MONEY DAMAGES
FIFTH THIRD BANK.)	AND INJUNCTIVE RELIEF
)	
Defendant.)	JURY DEMAND ENDORSED HEREON
)	
)	

Plaintiff, Frances Wilson, on behalf of herself (hereinafter “Plaintiff”), by and through her undersigned attorney, hereby sues Defendant, Fifth Third Bank (hereinafter “Defendant”), and alleges as follows.

PRELIMINARY STATEMENT

1. This is an action for damages arising from Defendant’s violations of 47 U.S.C. §227 *et seq.*, the Telephone Consumer Protection Act (“TCPA”).

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1331.
3. Venue is proper in this district under 28 U.S.C §1391(b).

PARTIES

4. Plaintiff is a natural person, who at all relevant times has resided in the City of Columbus, Ohio 43204.

5. Defendant is a corporation doing business in the State of Ohio with its principal place of business located at 38 Fountain Square Plaza, Cincinnati, Ohio 45263.

FACTUAL STATEMENT

6. On or about April 26, 2016, Plaintiff began receiving automated telephone calls from Defendant to her cellular telephone number.

7. On April 27, 2016, Plaintiff made an outbound call to Defendant and determined the telephone calls made to her to be in error as she had no business with Fifth Third Bank.

8. Plaintiff would continue to receive pre-recorded messages left on her cellular telephone voicemail from Defendant in the coming days.

9. Plaintiff does not have any account with Defendant and never gave consent for Defendant to call her.

10. In total, Plaintiff received the following number of automated calls from Defendant on the following dates in violation of the TCPA:

- a. 3 calls on 4/27/2016
- b. 2 calls on 4/28/2016
- c. 3 calls on 4/29/2016
- d. 1 call on 5/5/2016
- e. 2 calls on 5/6/2016
- f. 1 call on 5/7/2016
- g. 2 calls on 5/8/2016
- h. 4 calls on 5/10/2016
- i. 2 calls on 5/11/2016

11. The automated telephone calls were all from the phone number 800-837-5745 which belongs to Defendant.

12. The automated telephone calls were placed to Plaintiff's cellular telephone number 617-741-6342.

13. Because she was unfamiliar with Defendant and she continued to receive automated telephone calls, on June 13, 2016, Plaintiff called Defendant in an attempt to learn why she was receiving automated telephone calls from Defendant.

14. During the course of the phone call, Plaintiff provided her phone number to a representative of Defendant and learned that Defendant was attempting to reach “Kenneth McCarthy.”

15. Plaintiff informed Defendant’s representative that she was not Kenneth McCarthy.

16. Defendant used an automated telephone dialing system to call Plaintiff’s cellular telephone number for each of the phone call made to Plaintiff.

17. The repeated automated telephone calls to Plaintiff were a nuisance and an invasion of her privacy that caused her to lose the use of her phone during the time it was occupied by Defendant’s incoming calls and waste time determining who was calling her and playing back voicemail messages.

**CLAIM FOR RELIEF: VIOLATIONS OF THE TELEPHONE CONSUMER
PROTECTION ACT, 47 U.S.C. § 227**

18. Plaintiff repeats the allegations contained in paragraphs 1 through 14 and incorporates them as if specifically set forth at length herein.

19. Defendant never had consent to call Plaintiff’s cellular telephone number.

20. Defendant placed automated telephone calls to Plaintiff’s cellular telephone number through use of an automated telephone dialing system.

21. Defendant’s actions constitute a violation of 47 U.S.C. §227(b)(1)(A)(iii), to which their falls no exemption to their behavior.

WHEREFORE, Plaintiff, Frances Wilson, respectfully requests that this Court do the following for the benefit of Plaintiff:

- a. Enter an Order declaring Defendant's actions, as described above, in violation of the TCPA;
- b. Enter judgment against Defendant for all violations of 47 U.S.C. § 227b(1)(A)(iii)
- c. Enter judgment against Defendant for statutory damages for each violation of 47 U.S.C. § 227b(1)(A)(iii) or treble damages of the Court deems the violations willful; and
- d. Grant such other and further relief as may be just and proper.

Demand for A Jury Trial

Pursuant to Fed. R. Civ. P. 38, plaintiff demands a trial by jury on all contested issues of fact.

Respectfully Submitted,

/s/ Matthew L. Alden

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